

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**ST. RAPHAEL SURGERY CENTER,**  
  
**Plaintiff,**  
  
**V.**  
  
**AETNA LIFE INSURANCE COMPANY,**  
  
**Defendant.**

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**CIVIL ACTION NO. 5:16-cv-1295**

**NOTICE OF REMOVAL OF CIVIL ACTION**

Defendant Aetna Life Insurance Company (“Aetna”) files this Notice of Removal of Civil Action brought by Plaintiff St. Raphael Surgery Center (“Plaintiff”). The grounds in support of this Notice of Removal are as follows:

1.     **The State Court Action, Parties and Pleadings.** Plaintiff filed its Original Petition (hereinafter referred to as the “Complaint”) against Aetna on November 22, 2016, in the 408th Judicial District Court of Bexar County, Texas, under Cause Number 2016CI20291 (the “State Court Action”). A true and correct copy of the State Court Civil Docket Sheet is attached hereto as Exhibit A. A true and correct copy of the Complaint is attached hereto as Exhibit B.

2.     Aetna was served or otherwise received a copy of the Complaint on December 1, 2016. A true and correct copy of the citation to Aetna is attached hereto as Exhibit C.

3.     **This Notice is Timely Pursuant to 28 U.S.C. § 1446(b).** This Notice of Removal of Civil Action is being removed prior to the expiration of the statutorily allowed thirty (30) day period after the date that Aetna was served with or otherwise received a copy of the Complaint.

4.     **Complete Diversity of Citizenship Confers Jurisdiction.** This case involves a controversy wholly between citizens of different states, and the amount in controversy exceeds

the sum of \$75,000, exclusive of interest and costs. Therefore, this is a civil action in which the district courts of the United States have original diversity jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

5. Specifically, Plaintiff asserts that it is a Texas Limited Liability Company.<sup>1</sup> Upon information and belief, Plaintiff's sole member is Ascension Medical, LLC. Upon information and belief, Ascension Medical, LLC's members are Lance Jackson and Patricia Jackson of San Antonio, Texas. Upon information and belief, at the time the State Court Action was filed, Lance Jackson and Patricia Jackson were citizens of Texas. Upon information and belief, as of the date of filing of this Notice of Removal, Lance Jackson and Patricia Jackson continue to be citizens of the State of Texas.

6. Aetna is a corporation that was incorporated in the State of Connecticut and had its principal place of business in the State of Connecticut at the time the State Court Action was filed. As of the date of filing of this Notice of Removal, Aetna continues to be incorporated in and have its principal place of business in the State of Connecticut. Aetna did not have its principal place of business in the State of Texas and was not incorporated in the State of Texas at the time of the filing of the State Court Action or at the time of the filing of the Notice of Removal.

7. Furthermore, the amount in controversy in this action exceeds the sum of \$75,000.00, exclusive of interest and costs, in that Plaintiff is seeking to recover alleged actual damages of \$163,704.00 for facility fees and \$115,950.00 for an implant arising out of medical services allegedly provided to an Aetna member. Therefore, it is facially apparent, or more likely than not, that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

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<sup>1</sup> See Exhibit B, at p. 1, ¶ 2.

8. **Notice Filed in the State Court.** Promptly after filing this Notice of Removal, Aetna will provide written notice of removal to Plaintiff and will file a copy of this Notice of Removal with the Clerk for the District Court of Bexar County, Texas, as provided by law.<sup>2</sup>

WHEREFORE, PREMISES CONSIDERED, Defendant Aetna Life Insurance Company prays that the State Court Action be removed to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

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**COUNSEL FOR DEFENDANT  
AETNA LIFE INSURANCE COMPANY**

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<sup>2</sup> A true and correct copy of the Notice being filed with the District Court of Bexar County, Texas, 408th Judicial District, is attached hereto as Exhibit D.

**CERTIFICATE OF SERVICE**

I hereby certify that on December 22, 2016, a true and correct copy of this document was served on the following attorneys of record by United States certified mail, return receipt requested, as follows:

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